

RD AN No. 3801 (4279-B)
November 14, 2002

SUBJECT: Business and Industry Guaranteed Loan Program
Personal and Corporate Guarantees

TO: State Directors, Rural Development

ATTN: Business Program Directors

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to provide guidance and clarification regarding personal and corporate loan guarantees.

COMPARISON WITH PREVIOUS AN:

This AN replaces RD AN No. 3730 (4279-B) dated March 29, 2002. This AN clarifies that pursuant to 7 C.F.R. 4279.149(b), State Offices need to obtain unconditional guarantees instead of secured guarantees.

IMPLEMENTATION RESPONSIBILITIES:

RD Instruction 4279-B, section 4279.149(b), states: "Personal and corporate guarantees for those owning greater than 20 percent of the borrower will be required where legally permissible, except as provided for in this section. Guarantees of parent, subsidiaries, or affiliated companies and secured guarantees may also be required."

EXPIRATION DATE:
November 30, 2003

FILING INSTRUCTIONS:
Preceding RD Instruction 4279-B

All future loan guarantee agreements made in compliance with the above instruction are to require an unconditional personal or corporate guarantee rather than a secured guarantee. An unconditional guarantee will secure the loan effectively without placing a lien on other assets of a guarantor. A guarantee of payment is not equivalent to a full, unconditional personal or corporate guarantee, because it is restricted in coverage to limited situations.

EXAMPLE OF UNLIMITED GUARANTEE:

“Guaranty: Guarantor hereby unconditionally guarantees the prompt and full payment and performance of Borrower’s present and future, joint and/or several, direct and indirect, absolute and contingent, express and implied, indebtedness, liabilities, obligations and covenants to Lender, including any amendments, extensions, modifications, renewals, or substitutions thereto (cumulatively “Obligations”). Guarantor must pay all amounts due under the Note when the Lender makes written demand upon Guarantor. Lender is not required to seek payment from any other source before demanding payment from Guarantor.

Guarantor’s Obligations under this Guaranty shall be unlimited and shall include all present or future obligations between Borrower and Lender (whether executed for the same or different purpose), together with all interest and all of Lender’s expenses and costs, incurred in connection with the Obligations.”

If you have any questions, please contact the Business and Industry Division at (202) 690-4103.

JOHN ROSSO
Administrator
Rural Business-Cooperative Service